

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 729 of 1998

with

CRIMINAL REVISION APPLICATION No.634 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

SATYENDRAJITSING RAVELSING

Appearance:

1. Criminal Revision Application No. 729 of 1998

MR TRIVEDI, APP, for Petitioner

MR SV RAJU for Respondent No. 1, 2

2. Criminal Revision ApplicationNo 634 of 1998

MR EE SAIYED, for Petitioner

MR TRIVEDI, APP for respondent No.1.

MR SV RAJU for Respondent No. 2 & 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 12/07/1999

ORAL JUDGEMENT

1. Heard Mr. Trivedi, learned Additional Public Prosecutor for the state, Mr. E.E. Saiyed for the petitioner in Criminal Revision application No.634 of 1998 and Mr. S.V. Raju for the respondents-original accused.

2. It transpires from the order impugned in this petition that the learned Additional Sessions Judge, Kutch at Bhuj, while passing the impugned order observed that sanction under Section 197 of the Code of Criminal Procedure is necessary and, therefore, passed the following order :-

"The present application is allowed to the extent that there is no sanction under Section 197 of Cr.P.C. The accused have right to raise the said plea at any time. Hence, this court does not take cognizance of the offence alleged, in absence of previous sanction under Section 197 Cr.P.C. of the concerned authority and the case is kept in abeyance.

One month time i.e. dt. 5.10.98 is hereby fixed to submit necessary sanction obtained under Section 197 of Criminal Procedure Code, anyhow the prosecution has liberty to ask for further time if they cannot obtain the same within the said time."

3. The contention is that sanction would not be necessary for an act which is committed by a Government servant beyond the scope of his duties. However, during the pendency of these petitions, the matter appears to have been settled between the parties. Apart from this, a statement is made at the Bar by Mr. Saiyed that his client, the complainant has moved the authorities for obtaining necessary sanction.

4. Under the above circumstances, without expressing any opinion about the correctness of the finding in respect of sanction by the learned Additional Sessions Judge, it is directed that as and when sanction is granted, if any, it would be open for the authorities concerned to take appropriate action against the accused persons. With these directions, both the petitions stand disposed of. Rule issued in both the petitions is discharged.

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